

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 253 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

NEW INDIA ASSURANCE CO.LTD

Versus

JAGANNATH M MARATHA

Appearance:

None present for Petitioner
MR YV SHAH for Respondent No. 1
None present for Respondent No. 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 27/11/98

ORAL JUDGEMENT

This revision application is directed by the New India Assurance Co. Ltd. against the order dated 4.1.92 of Motor Accident Claim Tribunal (Auxillary) Bharuch in Civil Misc. Application No.708 of 1990 under which the application filed by the respondent no.1 for condonation of delay in filing of Accident Claim case has been condoned. The Learned Counsel for the respondent has drawn the attention of this Court that in view of the

amended provisions of the Motor Vehicles Act, 1988, now there is no limitation prescribed for filing of the claim application for compensation for the death resulted in the Motor vehicle accident.

2. Otherwise also, after perusing the impugned order, I am satisfied that the learned Tribunal has not committed any error in condoning the delay which was caused in filing of the accident claim petition by the claimants respondent in the Tribunal. The Learned Tribunal has found as a fact that the application filed by the respondent no.1 for the condonation of delay is not malafide. It has further held that no negligence is attributed to the claimant respondent. I am in full agreement with the learned Tribunal that in such matter the Court or the Tribunal, as the case may be has to take liberal approach. If that strict view is taken in such matters then certainly the very purpose and object of enacting a benevolent beneficiary provision shall be defeated. So on merits also, I do not find any case in favour of the petitioner. The Assurance Company, the petitioner herein is a State or instrumentality of the State or agency of the State within the meaning of article 12 of the Constitution of India and it is not advisable on its part what to say is desirable to challenge the order of the Tribunal under which the delay caused in filing of the claim application by the claimants has been condoned. This Court is constrained to observe that the insurance Co. is only permitted to raise a very very limited defences as provided under the Motor Vehicle Act, 1988 in a motor accident claim petition. When the Parliament has considered appropriate only to provide the limited statutory defences to the Insurance Co. how far it has been justified on its part to challenge the order of the Tribunal under which it is condoned the delay caused in filing of the claim petition by the claimants. This Court has also not considered it to be a matter of serious concern which is clearly borne out from its order dated 31.3.95. The interim relief which has been granted by this Court initially in the civil revision application was came to be vacated. It has all the possibility that by now the claim application itself would have been disposed of. The absence of the Counsel for the petitioner also goes to suggest that the Insurance Company is also not very much interested in pursuing the present civil revision application. So taking into consideration totality facts of the case, I do not find it to be a fit case where this Court should interfere with the order impugned in the civil revision application. The CRA fails and the same is dismissed. Rule discharged. The interim relief

granted by this Court is vacated. No order as to costs.

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